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13 **UNITED STATES DISTRICT COURT**

14 **DISTRICT OF NEVADA**

15 RYAN Q. CLARIDGE,

16 Plaintiff,

17 vs.

18 I-FLOW CORPORATION, a Delaware
19 corporation; I-FLOW, LLC, a Delaware limited
20 liability company; DJO LLC (f.k.a. DJ
21 ORTHOPEDICS, LLC), a Delaware limited
22 liability company; DJO, INCORPORATED, aka
23 DJO, INC., a Delaware corporation; STRYKER
24 CORPORATION, a Michigan corporation; and
25 STRYKER SALES CORPORATION, a
26 Michigan corporation,
27 Defendants.

CASE NO.: 2:18-cv-01654-GMN-BNW

**DEFENDANTS' MOTION FOR
EXPEDITED DECISION ON THE
PAPERS OR EXPEDITED
TELEPHONIC HEARING ON
MOTIONS TO COMPEL FRCP 35
EXAMINATIONS**

**[Defendants' Motion to Compel IMEs
Filed Herewith, Dkt. No. 92]**

24 Defendants Stryker Corporation, Stryker Sales Corporation, and I-Flow, LLC
25 ("Defendants"), by and through their counsel of record, move the Court for an expedited decision
26 on the papers, or in the alternative, an expedited telephonic hearing, on Defendants' motions to
27 compel necessary FRCP 35 examinations filed concurrently herewith.
28

1 After a meet and confer with Plaintiff's counsel on January 31, 2020, both parties request
2 that a decision be rendered (or, if needed, that a hearing be set) as soon as possible to expedite a
3 resolution and keep all discovery efforts on track for completion by the March 8, 2020, initial
4 expert witness disclosure deadline and the May 18, 2020, discovery cutoff.

5 **REQUEST FOR EXPEDITED DECISION ON THE PAPERS (OR TELEPHONIC**
6 **HEARING, IF NECESSARY) ON DEFENDANTS' MOTION TO COMPEL FRCP 35**
7 **EXAMINATIONS**

8 Throughout the course of discovery, Defendants have deposed nearly all of Plaintiff's past
9 and current treatment providers. During the week of January 13, 2020, Defendants deposed one
10 of Plaintiff's mental health providers, Barbara Key, Psy.D. and orthopedic specialist Milan
11 Stevanovic, MD, one of many doctors who has seen Plaintiff for his mysterious and apparently
12 ongoing "nerve injury."¹ Dr. Koe's testimony from the same week in January 2020 also raised
13 questions concerning the etiology of Plaintiff's alleged injuries. Over the past month, it has
14 become evident that Plaintiff intends to make significant damages claims against the Defendants
15 for both his alleged ongoing mental health issues and the mysterious ongoing nerve injury—with
16 the latter apparently preventing Plaintiff from working since 2018.

17 Given the testimony recently obtained from Plaintiff's medical care providers—as
18 discussed in Defendant's motion to compel filed herewith—counsel for Defendants conferred
19 with Colin King, Esq. and Joseph Schmitt, Esq. on January 31, 2020, and requested that Plaintiff
20 submit to a neurological and psychological evaluations with suitably qualified and licensed
21 physicians pursuant to FRCP 35. Although Plaintiff's counsel flatly denied Defendants' requests,
22 Mr. King agreed that Defendants' forthcoming motion to compel the FRCP 35 examinations
23 should be resolved on an emergency or expedited basis in order to keep discovery on track.

24 Given the foregoing, Defendants, on behalf of all the parties, request that the Court
25 resolve or set a telephonic hearing on Defendants' motions to compel the FRCP 35 examinations
26 as soon as possible, as any hearing set in the normal course would not allow sufficient time to

27 ¹ These witnesses were not deposed earlier due to their limited availability and also due to the
28 unavailability of counsel for either Plaintiff or one of the Defendants on the other dates provided.

1 complete the requested examinations under the current discovery schedule. Please note that
2 counsel for Defendants are not available on February 12 – 14 and February 21.

3
4 DATED this 7th day of February, 2019.

5
6 MINTZ LEVIN COHN FERRIS GLOVSKY
AND POPEO, P.C.

7
8 By: 

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16 *Stryker Corporation and Stryker Sales*
Corporation

17 **IT IS ORDERED** that ECF No. 93 is
18 GRANTED.

19 **IT IS FURTHER ORDERED** that
20 Plaintiff's response to ECF No. 92 is due
by 2/17/20.

21 **IT IS FURTHER ORDERED** that
Defendants' reply is due by 2/20/20.

22 **IT IS FURTHER ORDERED** that a
23 telephonic hearing is set on ECF No. 92
24 for 2/25/20 at 10:00 a.m. Parties shall
be connected to the hearing by dialing
25 **(877) 810-9415** and entering Access
Code **2365998** five minutes before the
hearing begins.

IT IS SO ORDERED

DATED: February 11, 2020



BRENDA WEKSLER
UNITED STATES MAGISTRATE JUDGE

1 **CERTIFICATE OF SERVICE**

2
3 I, the undersigned, declare under penalty of perjury, that I am over the age of eighteen
4 (18) years, and I am not a party to, nor interested in, this action. On this date, I caused to be
5 served a true and correct copy of the foregoing **DEFENDANTS' MOTION FOR EXPEDITED
6 DECISION ON THE PAPERS OR EXPEDITED TELEPHONIC HEARING ON
7 MOTIONS TO COMPEL FRCP 35 EXAMINATIONS** by the method indicated below and
8 addressed as follows:

9 ☒ **BY ELECTRONIC SUBMISSION:** submitted to the above-entitled Court for
10 electronic filing and service upon the Court's Service List for the above-referenced case.

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26 DATED this 7th day of February, 2019.

27 

28 An employee of Mintz Levin Cohn Ferris
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